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10/550,928	09/28/2005	Matthew Compton	282592US8X PCT	3691
22850	7590	08/30/2010	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			JOHN, CLARENCE	
			ART UNIT	PAPER NUMBER
			2443	
			NOTIFICATION DATE	DELIVERY MODE
			08/30/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action / Response to Arguments after Final**

1. Applicant's arguments filed on 8/13/2010 in response to After Final Office Action mailed on 5/13/2010 have been fully considered but they are not persuasive and do not place the Application in condition for allowance.
2. In response to the Applicant's arguments, the Examiner also states that Claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2D 1023, 1027 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); *In re Prater*, 415 F.2d 1393, 1404, 162 USPQ 541,550 (CCPA 1969).
3. In addition, the law of anticipation does not require that a reference "teach" what an appellant's disclosure teaches. Assuming that reference is properly "prior art," it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781,789 (Fed. Cir. 1983).
4. With respect to Claim 1, the Applicant argues that Yamamoto does not teach the audio level data packets which are formatted by the packetizer are

Art Unit: 2443

separate from the audio data packets, which are to be launched onto a network.

5. **In reply** the Examiner states that Yamamoto teaches the above limitation.

According to the Specification paragraphs [0013] and [0042], level is an example of an attribute. Per American Heritage Dictionary, level is defined as a relative position or rank of a scale. In light of the Specification and dictionary definition, audio level data is interpreted as attribute or relative position data related to audio data. Yamamoto teaches the data processing apparatus 120 obtains from a network signal launched from a Network N. The information embedded digital data has a data structure including a plurality of data packets. (Column 10 – lines 12-15). The information embedded digital audio data Dau is obtained at the distribution end by embedding information in digital audio data to be supplied from the distribution end to the user. (Figure 4, apparatus 120, Column 22 – lines 38-62, Figure 9). The audio data attribute information is transmitted from the distribution end together with the information embedded digital audio data. The attribute information is arranged in a fixed position in the audio data to be transmitted or it is multiplexed in the audio data to be transmitted as a data file separated from the audio data to be transmitted.

6. The Applicant also argues that Yamamoto does not teach the claimed packetizer.
7. **In reply**, the Examiner states that Yamamoto does teach the above limitation. Yamamoto teaches a packetizer operable to format the digital audio data into audio data packets to be launched onto the network; (Column 2, lines 48-53). Here the digital audio data is formatted according to the digital audio data recorded as the audio data file ODau and the signature data embedded audio data file SDau); and to format the audio level data into audio level data packets separate from the audio data packets to be launched onto the network. (Column 22, lines 56-62. Here the attribute data is transmitted as a data file separated from the audio data. Also, the extraction units extracts the embedded information, and the insertion unit embeds the extracted information separated by the audio data according to a control signal thereby generating output audio data. (Column 34 - lines 43-53).
8. The Applicant also argues that Yamamoto and Kuhn do not operate in a similar manner and cannot be combined together.
9. **In reply**, the Examiner states that Yamamoto and Kuhn teach in their networks which have common grounds of digital audio and video data processing. According to the Supreme Court Decision in **KSR International**

Art Unit: 2443

**Co. v. Teleflex Inc.**, 550 U.S. -, 82 USPQ2d 1385 (2007), Rationale C., it would have been obvious to combine the use of known technique which Kuhn teaches in the same way with Yamamoto so that an audio/video synchronous test signal generator be included in order to minimize or remove the noise signal for predictable results.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLARENCE JOHN whose telephone number is (571)270-5937. The examiner can normally be reached on Mon - Fri 8:00 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2443

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/CJ/

Patent Examiner

Art Unit 2443

8/24/2010

/Tonia LM Dollinger/

Supervisory Patent Examiner, Art Unit 2443